

Bureau of Reclamation, Interior

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(c) Reclamation reserves the right to reschedule, temporarily discontinue, reduce, or increase the delivery of water for the generation of electrical energy at any time for the purpose of maintenance, repairs, and/or replacements, and for investigations and inspections necessary thereto, or to allow for changing reservoir and river conditions, or for changes in kilowatthours generation per acre-foot, or by reason of compliance with the statutory requirement as referred to in paragraph (b) of this section; *Provided, however,* That Reclamation shall, except in case of emergency, give Western reasonable notice in advance of any change in delivery of water, and that Reclamation shall make such inspections and perform such maintenance and repair work at such times and in such manner as to cause the least inconvenience possible to Contractors and that Reclamation shall prosecute such work with diligence and, without unnecessary delay, resume delivery of water as scheduled.

(d) Should a Contractor have concerns regarding power generation and related matters and request a meeting in writing, including a description of areas of concern, Reclamation shall convene such meeting within 10 days of receipt of such request and shall notify all Contractors and Western of the date and location of the meeting, and the areas of concern to be discussed.

[51 FR 23962, July 1, 1986; 51 FR 24531, July 7, 1986]

§431.5 Cost data and fund requirements.

Reclamation shall submit annually on or before April 15 to Western and Contractors, cost data, including one year of actual costs for the last completed fiscal year and estimated costs for the next 5 fiscal years, for operation, maintenance, replacements, additions and betterments, non-Federal funds advanced for the uprating program by non-Federal purchasers, and interest on and amortization of the Federal investment. Such cost data shall identify major items. Upon 5 days prior written notice to Reclamation, any Contractor shall have the right, subject to applicable Federal laws and regulations, to review records used to

prepare such cost data at Reclamation offices during regular business hours. Contractors shall have an opportunity to present written views within 30 days of the transmittal of the cost data. Reclamation responses to written views shall be provided within 60 days of transmittal of the cost data or 30 days after a meeting with Contractors convened pursuant to §431.4(d), whichever is later.

§431.6 Power generation estimates.

Reclamation shall submit annually on or before April 15 to Western and Contractors, an estimated annual operation schedule for the Hoover Powerplant showing estimated power generation and estimated maintenance outages for review, and shall provide an opportunity to present written views within 30 days of the transmittal of the schedule. Reclamation responses to written views shall be provided within 60 days of the transmittal of the schedule or 30 days after a meeting with Contractors convened pursuant to §431.4(d), whichever is later. The estimated annual operation schedule of Hoover Powerplant shall be subject to necessary modifications, in accordance with §431.4(c). Upon 5 days prior written notice to Reclamation, any Contractor shall have the right, subject to applicable Federal laws and regulations, to review records used to prepare such power generation estimates at Reclamation offices during regular business hours.

§431.7 Administration and management of the Colorado River Dam Fund.

Reclamation is responsible for the repayment of the Project and the administration of the Colorado River Dam Fund and the Lower Colorado River Basin Development Fund.

(a) All receipts to the Project shall be deposited in the Fund along with electric service revenues deposited by Western and shall be available without further appropriation for:

(1) Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance, and replacements of

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all Project facilities, including emergency replacements necessary to insure continuous operations;

(2) Payment of annual interest on the unpaid investments in accordance with appropriate statutory authorities;

(3) Repayment of capital investments including amounts readvanced from the Treasury;

(4) Payments to the States of Arizona and Nevada as provided in section 2(c) of the Adjustment Act and section 403(c)(2) of the Colorado River Basin Project Act;

(5) Transfers to the Lower Colorado River Basin Development Fund and subsequent transfers to the Upper Colorado River Basin Fund, as provided in section 403(c)(2) of the Colorado River Basin Project Act and section 102(c) of the Hoover Power Plant Act, as reimbursement for the monies expended heretofore from the Upper Colorado River Basin Fund to meet deficiencies in generation at Hoover Dam during the filling period of storage units of the Colorado River Storage Project in accordance with the provisions of sections 403(g) and 502 of the Colorado River Basin Project Act, such transfers, totalling \$27,591,621.25, to be effected by 17 annual payments of \$1,532,868.00 beginning in 1988 and a final payment of \$1,532,865.25 in 2005; and

(6) Any other purposes authorized by existing and future Federal law.

(b) Appropriations for the visitor facilities program and any other purposes authorized by existing and future Federal law advanced or readvanced to the Fund shall be disbursed from the Fund for those purposes.

(c) All funds advanced by non-Federal Contractors for the Uprating Program shall be deposited in the Fund, shall be available without further appropriation, and shall be disbursed from the Fund to accomplish the Uprating Program.

(d) The Fund shall be administered and managed in accordance with applicable Federal laws and regulations, by the Secretary acting through the Commissioner.

[51 FR 23962, July 1, 1986; 51 FR 24531, July 7, 1986]

§ 431.8 Disputes.

(a) All actions by Reclamation or the Secretary shall be binding unless and until reversed or modified in accordance with the provisions herein.

(b) Any disputes or disagreements as to interpretation or performance of the provisions of these General Regulations under the responsibility of the Secretary shall first be presented to and decided by the Commissioner. The Commissioner shall be deemed to have denied the Contractor's contention or claim if it is not acted upon within 60 days of its having been presented. The decision of the Commissioner shall be subject to appeal to the Secretary by a notice of appeal accompanied by a statement of reasons filed with the Secretary within 30 days after such decision. The Secretary shall be deemed to have denied the appeal if it is not acted upon within 60 days of its having been presented.

(c) The decision of the Secretary shall be final unless, within 30 days from the date of such decision, a written request for arbitration is received by the Secretary. The Secretary shall have 90 days from the date of receipt of a request for arbitration either to concur in or deny in writing the request for such arbitration. Failure by the Secretary to take any action within the 90 day period shall be deemed a denial of the request for arbitration. In the event of a denial of a request for arbitration, the decision of the Secretary shall become final. Upon a decision becoming final, the disputing Contractor's remedy lies with the appropriate Federal court. Any claim that a final decision of the Secretary violates any right accorded the Contractor under the Project Act, the Adjustment Act, or title I of the Hoover Power Plant Act is barred unless suit asserting such claim is filed in a Federal court of competent jurisdiction within one year after final refusal by the Secretary to correct the action complained of, in accordance with section 105(h) of the Hoover Power Plant Act.

(d) When a timely request for arbitration is received by the Secretary and the Secretary concurs in the request, the disputing Contractor and the Secretary shall, within 30 days of receipt of such notice of concurrence, each